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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,505	02/06/2004	Peter D. Almen	6006.20US01	6628
52835	7590	02/02/2006		
HAMRE, SCHUMANN, MUELLER & LARSON, P.C. P.O. BOX 2902-0902 MINNEAPOLIS, MN 55402			EXAMINER PECHHOLD, ALEXANDRA K	
			ART UNIT 3671	PAPER NUMBER
DATE MAILED: 02/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,505

Applicant(s)

ALMEN, PETER D.

Examiner

Alexandra K. Pechhold

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 3 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 2, 4, 5, 7, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Patton (US 5,351,634).**

Regarding claim 1, Patton discloses an agricultural implement for being pulled by a powered vehicle (seen in Figs. 5-8), comprising:

- a tow bar assembly (seen as rods 90, 92) wherein the implement is pulled by said powered vehicle (since the machine 20 is pulled behind the tractor as seen in Figs. 5-8);
- a working assembly (seen as machine 20) having a front gang of coulters (seen as forward coulters 24) and a rear gang of coulters (seen as rear set of coulters 26), and
- a pivoting assembly (seen as turnbuckle 96) connecting said tow bar assembly and said working assembly, said pivoting assembly being operable to transfer weight of said working assembly between said front gang of coulters and said rear gang of coulters (see Col 3, lines 49-64).

Regarding claim 2, Patton discloses that the raising and lowering device can operate by hydraulic action (Col 3, lines 49-56).

Regarding claim 4, the front gang of coulters and rear gang of coulters (24, 26) comprise blades as seen in the figures.

Regarding claim 5, the front gang of coulters and the rear gang of coulters (24, 26) are substantially parallel to each other, as seen in the figures.

Regarding claim 7, Patton discloses the limitations of the claimed invention as discussed with respect to claims 1 and 2 above. Furthermore, Patton discloses a frame seen in Fig. 2, and the said working assembly inherent has weight. When the cylinder of Patton is extended, more of the weight of said working assembly is supported by said rear gang of coulters (as shown in Fig. 7), and when said hydraulic cylinder is retracted, more of the weight of said working assembly is supported by said front gang of coulters (as shown in Fig. 8).

Regarding claim 9, Patton discloses the limitations of the claimed invention as discussed with respect to claims 1 and 2 above. Furthermore, Patton discloses a frame seen in Fig. 2, and the said working assembly inherent has weight. The frame has a level orientation when it is level relative to said tow bar assembly. When the frame is inclined upward in front relative to said level orientation, more of the weight of said working assembly is supported by said rear gang of coulters (as shown in Fig. 7), and when the frame is inclined downward in front relative to said level orientation, more of the weight of said working assembly is supported by the front gang of coulters (as shown in Fig. 8).

Regarding claim 10, the front gang of coulters and the rear gang of coulters (24, 26) are substantially parallel to each other, as seen in the figures.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patton (US 5,351,634) as applied to claim 1 above, and further in view of Javerlhac (US 6,499,543).** Patton fails to disclose the rear gang blades as positioned midway between the front gang blades. Javerlhac teaches that it is preferable to space apart the disks of various gangs so that any one disk continues to work between the tracks of the two disks of the preceding gang of disks, promoting a well-cultivated state (Col 2, lines 49-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arrangement of the front and rear gang blades of Patton so that the rear gang blades are positioned midway between the front gang blades as taught by Javerlhac, since Javerlhac states how this promotes a well-cultivated state (Col 2, lines 49-60).

Allowable Subject Matter

5. Claims 3 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 12/13/05 have been fully considered but they are not persuasive. The applicant argues that Patton discloses a "three point hitch", and not directed to an agricultural implement for being pulled by a powered vehicle. The Examiner disagrees, since Patton discloses a grass planting apparatus that is adapted for connection to the rear of a tractor (see Abstract and Figs. 1 and 5-8). Clearly, the planter apparatus (20) is pulled by the powered tractor. Applicant also argues that the three point hitch of Patton does not meet the claimed recitation of a tow bar assembly. Applicant's independent claims 1, 7, and 9 all recite a "tow bar assembly", and lack any further structure or specificity as to what this assembly comprises. The Examiner maintains the rejection that the rods (90, 92) of Patton act as a tow bar assembly, since they connect the planter implement to the rear of the tractor. The applicant's claims seem to be broader than what the applicant is arguing. Lacking any further structure to differentiate from Patton, the Examiner contends that the rods (90, 92) of Patton meet the claimed recitation of a "tow bar assembly" since they are used to tow the implement behind the tractor.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
1/23/06